

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

UNITED STATES OF AMERICA,

- versus -

JASON VALE,

Defendant.

ORDER

02-CR-466 (JG)

JOHN GLEESON, United States District Judge:

The defendant Jason Vale seeks relief pursuant to Fed. R. Civ. P. 60(b) from the criminal judgment entered in this case on June 30, 2004.

The motion is based on the Supreme Court's recent decision in *Alleyne v. United States*, 133 S.Ct. 2151 (2013), which extended the rule of *Apprendi v. New Jersey*, 530 U.S. 466, 489 (2000) ("Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt."), to facts that trigger mandatory minimum sentences, *Alleyne*, 133 S.Ct. at 2155.

The motion is denied. Putting aside the glaring procedural deficiencies, including the fact that Rule 60(b) relief is unavailable in a criminal case, *Alleyne* has no bearing on this case, in which there was no mandatory minimum sentence.

For that and other reasons, *Alleyne* affords Vale no basis for relief from the judgment. Accordingly, his motion is denied.

So ordered.

John Gleeson, U.S.D.J.

Dated: September 27, 2013
Brooklyn, New York